Air Quality Permitting
Response to Public Comments

September 27, 2007

Permit to Construct No. P-060024

Valley Paving & Asphalt, Inc., McCall

Facility ID No. 777-00086

Prepared by:
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AIR QUALITY DIVISION

Proposed for Public Comment

Acronyms, Units, and Chemical Nomenclatures

AAC	acceptable ambient concentrations for non-carcinogens
AACC	acceptable ambient concentrations for carcinogens
CAA	Clean Air Act
DEQ	Department of Environmental Quality
EPA	U.S. Environmental Protection Agency
HMA	Hot-Mix asphalt
IDAPA	a numbering designation for all administrative rules in Idaho promulgated in accordance with the Idaho Administrative Procedures Act
lb/hr	pounds per hour
NAAQS	National Ambient Air Quality Standards
NSPS	New Source Performance Standards
PTC	permit to construct
PTE	potential to emit
RAP	recycled asphalt pavement
Rules	Rules for the Control of Air Pollution in Idaho
T/yr	tons per year
TAP	toxic air pollutant
T-RACT	Toxic Air Pollutant Reasonably Available Control Technology

1. BACKGROUND

As deemed appropriate by the Director, the Idaho Department of Environmental Quality (DEQ) provided for public comment on the proposed modification to Permit to Construct No. P-060024, which DEQ developed based on application materials provided by Valley Paving and Asphalt, Inc. located in McCall, Idaho.

The initial public comment period on the draft modification to the PTC was held from November 10, 2006 through January 12, 2007. DEQ also held an informational meeting on November 28, 2006 and a public hearing on January 11, 2007. Comments were submitted to DEQ via mail, facsimile, email and verbal/written testimony.

The comments received from the initial public comment period have been addressed in this document. Revisions and additional analysis have been included in the permit as a result of some of the comments already received. DEQ determined that another public comment period with additional opportunity for comment would be made available. Any additional comments received will be considered prior to taking final action on the permit to construct.

Opportunity for Public Comment on PTC application, July 14 through August 14, 2006

Millie Meyer, email to DEQ, received July 15, 2006

Edith Francis, email to DEQ, received July 19, 2006

Dan and Becca Randall, email to DEQ, received July 23, 2006

Linda L. Corder, email to DEQ, received July 24, 2006

James E. Thackeray, email to DEQ, received July 25, 2006

Marion and Sharon Russon, email to DEQ, received July 31, 2006

Terri E. Zak, email to DEQ, received August 2, 2006

Randi Albrechtsen, email to DEQ, received August 3, 2006

Chris Sabin, letter to DEQ, received August 4, 2006

Michelle A. Butler, letter to DEQ, received August 8, 2006

Roger M. Millar, City of McCall, letter to DEQ and copy of resident petition and comments received by the city, received by DEQ August 14, 2006

Charles and Susan Davis, email to DEQ, received August 11, 2006

Robin Bashon, email to DEQ, received August 11, 2006

Tuck Miller, email to DEQ, received August 12, 2006

Cindy Miller, email to DEQ, received August 12, 2006

Ted McManus, email to DEQ, received August 15, 2006

Debbi Fereday, email to DEQ, received August 15, 2006

Terry and Ralph Avitable, email to DEQ, received August 15, 2006

Kathy Schon, email to DEQ, received August 21, 2006

Nicholas Monahan, email to DEQ, received September 15, 2006

Public Comment on draft PTC, November 10 through December 12, 2006-extended to January 12, 2007

David McKinney, email to DEQ, received November 9, 2006

Sara and Michael Amtmann, email to DEQ, received November 19, 2006

Pam McChrystal, email to DEQ, received November 19, 2006

Richard McChrystal, email to DEQ, received November 20, 2006

Mary Wood, email to DEQ, received November 22, 2006

Becca Randall, email to DEQ, received November 28, 2006

Millie Meyer, email to DEQ, received November 28, 2006

Lee Brooks, email to DEQ, received November 28, 2006

Stoel Rives, LLC Attorneys at Law, letter to DEQ, received December 11, 2006

Becca Randall, facsimile to DEQ with 13 signatures from citizens opposed to the permit, received December 13, 2006

Rod Miller, email to DEQ, received December 19, 2006

Terri E. Zak, email to DEQ, received January 1, 2007

Jim and Alex Jones, email to DEQ, received January 3, 2007

Clifford Nelson, email to DEQ, received January 14, 2007

Don and Patricia Smith, email to DEQ, received January 14, 2007

Roger Millar, City of McCall, letter to DEQ, received January 5, 2007

Donna-Christine McGuire, email to DEQ, received January 7, 2007

Victoria Cunningham, email to DEQ, received January, 6, 2007

David McKinney, on behalf of MCAAP, email to DEQ, received January 9, 2007

Penny Kent, email to DEQ, received January 10, 2007

Karen Morrow, email to DEQ, received January 11, 2007

Karen Johnson Maciaszek, email to DEQ, received January 12, 2007

Joy Hamilton, email to DEQ, received January 11, 2007

Ester Mulnik, email to DEQ, received January 12, 2007

Meg Lojek, email to DEQ, received January 12, 2007

Jennifer Sadhanna, email to DEQ, received January 12, 2007

Marina Myles-Worseley, email to DEQ, received January 12, 2007

Robert Morrow, email to DEQ, received January 12, 2007

Mary Wood, email to DEQ, received January 12, 2007

Todd Arndt, email to DEQ, received January 12, 2007

Rachel Arndt, email to DEQ, received January 12, 2007

Becky Johnstone, email to DEQ, received January 12, 2007

Marilyn Olsen, email to DEQ, received January 12, 2007

Dennis McCoy, email to DEQ, received January 12, 2007

Jennifer Church, email to DEQ, received January 12, 2007

Public Comment on draft PTC, November 10 through December 12, 2006-extended to January 12, 2007, continued

Jim Foundy and Alison Gantz, email to DEQ, received January 12, 2007

Ruth Lewinski, letter dated January 9, 2007, submitted at the hearing on January 11, 2007

Lynn Lewinski, letter dated January 9, 2007, submitted at the hearing on January 11, 2007

Claire Lewinski, letter dated January 9, 2007, submitted at the hearing on January 11, 2007

Heather Fredericks, letter dated January 11, 2007, submitted at the hearing on January 11, 2007

Penny Kent, email printout dated January 10, 2007, submitted at the hearing on January 11, 2007

Robin Armstrong, letter not dated, submitted at the hearing on January 11, 2007

David Alexander, letter dated January 11, 2007, submitted at the hearing on January 11, 2007

I.G. Pool, letter dated January 11, 2007 on behalf of Valley View I Homeowner's Association, submitted at the hearing on January 11, 2007

Derek McLaughlin, letter dated January 12, 2007, submitted at the hearing on January 11, 2007

Joseph Fox, letter not dated, submitted at the hearing on January 11, 2007

Signatures of 13 citizens opposed to the permit, submitted at the hearing on January 11, 2007

Transcript of January 11, 2007, hearing at the McCall Golf Course

Testimony at the January 11, 2007 hearing

Charlie Smith

John Rygh

Joy Hamilton

Charles Davis

Margaret Lojek

Ted McManus

Gary Calkins

Sage Fox

Susan Bechdel

David McKinney

Mary Wood

Chris Seubert

Cindy Miller

Tuck Miller

Karen Morrow

Robert Morrow

Diane Evans Mack

Lisa Ostermiller

Nick Monahan

James Thackeray

Testimony at the January 11, 2007 hearing, continued

Jennifer Gray, M.D.

Daniel Kaiser

Steven Padgitt

Emily Zak

Brandi Solace, M.D.

Dylan Beeson

Rich McChrystal, P.A.

Jennifer Church

2. RESPONSES TO COMMENTS

Public comments regarding the analysis and air quality aspects of the proposed permit and analysis and responses have been summarized below. Due to the similarity of many of the comments received, the summary presented below combines and/or paraphrases the comments in order to eliminate duplication and provide a concise summary. Comments received during the comment period that did not relate to the air quality aspects of the permit application, the DEQ's technical analysis, are not addressed.

Comments Received

Comment 1: **Comments were submitted requesting that the modification to the permit be denied, because emissions from the facility would jeopardize people, quality of life, and the environment. Some of these comments mentioned potential health concerns resulting from emissions and a decrease in recreational activities.**

Response: The permit has been developed in accordance with the Rules for the Control of Air Pollution in Idaho (Rules) and applicable federal regulations.

The modeling analysis conducted for the estimated criteria pollutants demonstrate that the facility will not cause or significantly contribute to a violation of the National Ambient Air Quality Standards (NAAQS) provided compliance with the proposed permit is maintained.

Additionally, it was demonstrated that the estimated toxic air pollutant (TAP) emissions that would increase or result from the permit modification comply with Section 210 of the Rules.

Although not required for this permit modification, DEQ reviewed facility-wide TAP emissions to ensure protection of public health in accordance with IDAPA 58.01.01.161. Facility-wide TAPs which exceeded their respective ambient increments were as determined through air dispersion were further analyzed through a Risk Analysis. The results of this analysis show that the proposed modification does not pose a significant risk to public health. The full risk analysis is included as Appendix E in the Statement of Basis for Valley Paving and Asphalt PTC No. P-060024.

Comment 2: **Comments were submitted stating that the location of the facility was too close to residences, and should be required to relocate elsewhere. These comments included concerns regarding decreases in property value, noise and pollution concerns to nearby residents and concerns regarding scenic bypass aesthetics.**

Response: Determinations about the location of businesses are made by the appropriate local governing bodies. DEQ does not have the authority to determine the location of the facility or require the facility to relocate as part of this permitting action. Upon receipt of an air quality application, it is DEQ's responsibility to evaluate emissions, and where appropriate, impose conditions in a permit to ensure compliance with applicable state and federal air quality requirements.

Comment 3: **Comments were submitted stating that the permit be denied because odors are produced when the facility is operating.**

Response: Permit Condition 3.3 states "the permittee shall not allow, suffer, cause, or permit the emission of odorous gases, liquids, or solids into the atmosphere in such quantities as to cause air pollution," in accordance with IDAPA 58.01.01.776. The permit also requires development of an odor management plan, and recordkeeping and reporting

requirements pertaining to odor complaints which the facility must fulfill. These requirements, along with periodic inspections, have been established to minimize odors originating from the facility and are consistent with requirements in other air permits.

Comment 4: **Comments were submitted stating that the DEQ has already decided in favor of granting the permit and requests as to why this decision was made.**

DEQ stated during the November 28, 2006 informational meeting that if the permit application satisfies all applicable rules and regulations, then DEQ is mandated by law to issue the permit.

Comment 5: **Comments were submitted with concerns about lack of ambient monitoring in the McCall area and requests to monitor for air pollutants in the future.**

Response: Funding for a monitor in McCall is an ongoing challenge. A monitoring station is in place in McCall with assistance of the Forest Service and will operate July to December of this year (2007). It is likely it will operate during fire season in the future. DEQ has requested additional funding from the legislature to continue monitoring operation.

Comment 6: **The proposed conditions for odor control for VPA are based upon "comments and complaints from the public." Public concern alone is not a sufficient regulatory basis to impose enforceable operating conditions on a source, absent a demonstrated environmental impact or public health threat. In this case particularly, the proposed conditions may result in significant expense for the permittee. The financial impact of the proposed conditions, however, is not discussed in the docket. Compliance with the proposed odor provisions is to be determined by a subjective assessment made by the public and representatives of the Department. Therefore, the source's ability to manage and maintain compliance is unreasonable in the hands of others.**

Condition 3.3 tracks the language of IDAPA 58.01.01.776.01. The Department's authority to impose conditions for the control of odor at sources (other than rendering plants) is limited to the language at IDAPA 58.01.01.776.01, as restated in Condition 3.3. Arguably, even this provision is inapplicable to VPA under 58.01.01.775 because other gaseous emission control rules apply to this source, for example Condition 3.1. The rules are silent on an appropriate compliance demonstration method for IDAPA 58.01.01.776.01. The odor rule generally prescribes that emissions of odorous gases, liquids, or solids shall not cause "air pollution." Air pollution is a condition that "would be injurious to human health" or would "interfere unreasonably with the enjoyment of life or property." IDAPA 58.01.01.006. The first objective standard presumably requires an objective standard of reasonableness that can result in inequitable application of the odor rule.

Conditions 3.17 and 3.18 exceed the Department's authority. Odor management plans are not required by the air rules. Moreover, the use of chemical additives and odor control equipment is not prescribed by the air rules. Absent any rules defining the reasonableness or the selection of particular methods to control odor, the proposed condition could result in arbitrary requirements that create other unintended environmental impacts or that require significant expenditure by the permittee. The Department is to have a regulatory basis, particularly a demonstrable adverse environmental impact or adverse health impact, before imposing such onerous conditions. Neither is demonstrated for this proposed permit.

Response: DEQ has the regulatory authority under IDAPA 58.01.01.775-776 and 211 to impose odor controls. DEQ has, however, decided to remove from the proposed permit, specific odor control additives or equipment because specifying exact controls eliminates the facility's ability to use alternative or superior odor control strategies. DEQ has retained Permit Condition 3.17 (Odor Management Plan) but has added that the plan must include odor control strategies (e.g. odor control equipment or odor control additives). Odor management plans are a compliance tool the DEQ may use to ensure compliance with odor control requirements. Requiring an odor management plan is similar to the concept of requiring a fugitive dust control plan for fugitive dust sources or an operations and maintenance manual for a specific piece of equipment.

Comment 7: **Why is the Department of Environmental Quality insistent on issuing a permit that will result in violations of ambient air quality standards?**

Please explain how DEQ justifies issuing a permit that will result in violations of the 24-hour ambient air quality standard for particulate matter and will emit air toxics exceeding limits set by Sections 585 and 586 of the Idaho Administrative Code (IDAPA 58.01.01).

A similar comment states "I fail to see how DEQ can issue a permit that exceeds the AACC and AAC for TAPS."

Response: See Response to Comment 1 and Appendix E in the Statement of Basis for Valley Paving and Asphalt PTC No. P-060024.

Comment 8: **Why is DEQ not denying this permit application on the basis that the owner cannot legally achieve a production rate of 300 tons/hour?**

Response: The applicant has certified that the facility's hot-mix asphalt plant is able to achieve a production rate up to 300 tons per hour under ideal summer time conditions. Currently, Valley Paving and Asphalt is limited to an asphalt production rate of 200 tons per hour. Should DEQ issue the PTC as requested, Valley Paving will be legally allowed to produce asphalt at a rate of 300 tons per hour.

Comment 9: **What exactly is T-RACT for Chromium, Nickel, Arsenic, and Polycyclic Organic Matter? Please explain why the elimination of these contaminants from the process is not T-RACT. And please explain why DEQ does not simply deny the request to burn used oil on the basis that it will result in AACC concentrations above those allowed by DEQ rules.**

Response: T-RACT was not required for this permit: therefore, the applicant did not conduct, and DEQ did not review, a T-RACT analysis. Also, see Response to Comment 1 and Appendix E in the Statement of Basis for Valley Paving and Asphalt PTC No. P-060024.

Comment 10: **How does DEQ determine T-RACT? And why isn't a baghouse required as T-RACT for these pollutants? Please clarify DEQ's interpretation of T-RACT as it applies to Toxic Air Pollutants and explain how T-RACT is determined.**

Response: See Response to Comment 9. It is the responsibility of the applicant to submit information to DEQ identifying and documenting which control technologies the

applicant believes to be T-RACT. DEQ then reviews the information submitted by the applicant and determines whether the applicant has proposed T-RACT.

Comment 11: **Isn't 1033 percent more than 10 times?**

Response: The comment is referring to annual Chromium 6+ emissions being 1033 percent more than the acceptable ambient increment. There is not an increase in annual Chromium 6+ emissions due to the permit modification. The overall Chromium 6+ emissions were modeled as part of a facility-wide analysis as described in DEQ's Response to Comment 1. The majority of the Chromium 6+ emissions do not even originate from the hot-mix asphalt plant, rather, they originate from a nearby concrete facility. Facility-wide modeling must consider nearby sources (in this case the concrete facility) when conducting the modeling analysis.

Because the Chromium +6 predicted impact is higher than its respective acceptable ambient increment, DEQ conducted a Risk Analysis. The results of that analysis are discussed in DEQ's Response to Comment 1.

Comment 12: **Why is DEQ compelled to issue a permit that it knows will result in degraded air quality in the McCall Valley?**

Response: DEQ is not compelled, but rather is required by law, to issue air quality permits so long as the applicant demonstrates that a proposed source or modification will comply with all applicable state and federal rules and regulations.

Comment 13: **Is DEQ responsible for economic development or environmental protection? Please clarify.**

Please clarify DEQ's role in protecting Idaho's citizens and its environment from unnecessary air pollution.

Response: Environmental protection.

The Idaho legislature has provided DEQ's director, through the rules adopted by the Board of Environmental Quality, the power and duty to supervise and administer a system to safeguard air quality and for limiting and controlling the emission of air contaminants. The mechanism used to fulfill this obligation is an air quality permit to construct issued pursuant to IDAPA 58.01.01.200-228.

Comment 14: **Why doesn't DEQ simply require the portable plant to relocate rather than requiring the use of odor-masking chemical additives?**

Response: See DEQ's Response to Comment 2.

Odor-masking chemical additives requirement was removed from the permit. See DEQ's Response to Comment 6.

Comment 15: **Why is DEQ only requiring one test of the asphalt plant scrubber? Annual testing should be a minimum requirement for this plant. One test every five years is grossly inadequate.**

Response: The originally issued permit only required one test as required by the applicable federal New Source Performance Standard (NSPS). The proposed permit requires a source test within 180 days and at least every five years thereafter and may occur more often. This

is a standard practice that DEQ has been imposing on hot-mix asphalt facilities for the past couple of years.

Comment 16: **What exactly is the potential to emit from this asphalt plant?**

Response: Potential to emit (PTE) is defined as the maximum capacity of a facility to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the facility to emit an air pollutant, provided the limitation or its effect on emissions is state or federally enforceable, shall be treated as part of its design. Limitation may include, but are not limited to, air po0llution control equipment, restrictions on hours of operation and restrictions on the type or amount of material combusted, stored or processed. IDAPA 58.01.01.006.81. This PTC limits production and hours of operation and requires the use of air pollution control equipment. See the emissions inventory for PTE in Appendix C in the Statement of Basis for Valley Paving and Asphalt PTC No. P-060024.

Comment 17: **What assurance can DEQ give the public that Valley Paving will monitor and record its operation as required by the proposed permit?**

Response: The permit requires Valley Paving to monitor and record those parameters as required by the permit. Failure to monitor/record as required constitutes a violation of the permit. If the facility violates a condition(s) of the PTC, penalties may be imposed and additional injunctive relief required in accordance with the Idaho Environmental Protection and Health Act, Idaho Code § 39-108, and DEQ policies, including the Air Quality Administrative Penalty Policy. Criminal prosecution may be warranted for knowing violations per Idaho Code Section 39-117. Citizen suits may also be available under section 304 of the federal Clean Air Act.

Citizens can contact DEQ with valid complaints and DEQ will investigate Valley Paving operations for permit compliance. If it is determined that they are out of compliance, action will be taken.

With regards to compliance information pertaining to the facility, the public may request public records for all information required by the permit and for any complaints regarding the facility that are received by DEQ.

Comment 18: **What is "normal capacity?"**

Permit condition 3.20 requires monitoring and recording of the pressure drop across the wet venturi scrubber throat once per day while the plant is operating at normal capacity. Is that 200 tons/hour? 300 tons/hour? Normal that day?

Please clarify how DEQ will interpret "normal capacity" with respect to this asphalt plant. Also, please clarify how DEQ will determine if a source test is representative of "normal" operating conditions.

Response: Permit Condition 3.19 requires that pressure drop across the wet venturi scrubber throat be monitored and recorded once per day while HMA is being produced. Permit Condition 3.20 requires a monthly, facility-wide inspection of potential sources of fugitive emissions during daylight hours and under "normal operating conditions" to ensure that the methods used to reasonably control fugitive emissions are effective.

Permit Condition 3.20 has been revised to the following: *The permittee shall conduct a weekly facility-wide inspection of potential sources of fugitive emissions during daylight hours and while the facility is operating to ensure that the methods used to reasonably control fugitive emissions are effective.*

Regarding source testing, IDAPA 58.01.01.157.02 requires that tests be conducted at worst-case normal operating conditions, if the operational requirements are not specified in the permit. Worst-case normal conditions are those conditions of fuel type, moisture, process material makeup and process procedures which are changeable or which could reasonably be expected to be encountered during the operation of the facility and which would result in the highest pollutant emissions from the facility. DEQ generally considers worst-case normal conditions to be 80-90% of maximum rated capacity, unless the facility can provide information to document that normal operation is lower.

The operating conditions the plant will operate at during a source test are provided in a source test protocol submitted to DEQ by the permittee. It is during DEQ's review of the source test protocol that any deviations from the test method are thoroughly discussed with the permittee. Any change to a test method needs to be technically based and supported. Source tests are expensive. Failure to obtain DEQ approval may result in the entire test being rejected. This being the case, almost every facility submits a source test protocol for review and approval. Worst-case operating conditions are part of this approval.

Comment 19: **Condition 2.1: The process description indicates this plant will use RAP or recycled asphalt product. However, it is unclear whether the modeling, emission inventory, or major source determination (PTE calculations) account for the increased emissions associated with the processing of RAP.**

Please revise the statement of basis to clearly indicate how the use of RAP affects potential emissions, actual emissions, and modeled emissions impacts.

Response: No technical information or specific emission factors are provided in AP-42 or any other source to support the position of how using RAP affects emissions. Emission factors are the same in AP-42 for using up to 50% RAP.

The facility will use 5 to 10% RAP. Our emissions are based on AP-42 emission factors, which is standard for state permitting agencies.

Comment 20: **Condition 3.10- 3.13: The permit refers to manufacturers specifications but the proposed permit would allow the plant to be operated in excess of its design rated capacity.**

Please clarify if the manufacturer has issued specifications for the operation of this equipment as proposed by the plant owner. If Aesco has not provided the plant owner with specifications for the operation of the Hauck SJ360 burner and GB200 VWS scrubber operated at 300 tons/hour, please explain how the permittee will comply with this permit.

Response: See DEQ's Response to Comment 8.

Comment 21: **Your news release refers to the "Proposed air quality permit," a definite misnomer, if not an out and out lie. A more appropriate term for the proposed**

permit is "Permit to Poison McCall's Air Quality." The wording of your news release states that the permit will "allow the use of used oil as a fuel and increase production from 200 to 300 tons per hour when necessary"..."The change will not increase annual hours of operation or the amount of asphalt produced annually." Your wording fails to state that the change will increase the amount of toxins emitted PER YEAR by a factor of 200,000. (Here is the math: 300 - 200 = 100 X 2,000 hours of operation per year if the plant operates 40 hours/week for 50 weeks).

Response: The proposed permit is allowing an hourly throughput increase and the ability to use used oil as aggregate drum dryer burner fuel. Valley Paving is still limited to an annual throughput of 280,000 T/yr. Annual emissions; therefore, are not expected to increase. Short-term emissions will increase but the applicants analysis predicts that the short-term increase will not cause or contribute to a violation of any air quality standard.

Comment 22: **I strongly encourage you to deny a permit to Valley Paving to increase production at the McCall asphalt plant for two reasons: First, the DEQ removed the air quality monitor in McCall last winter and has no way to monitor the declining air quality in our town. Secondly, DEQ is unable to monitor the pollutants from the asphalt plant and the owners have shown a disregard for the health of our community by violating existing regulations.**

You are fully aware that McCall, Idaho has deteriorating air quality and yet the DEQ has chosen to remove the air quality monitor for financial reasons. Readings from last Fall vividly show the dramatic drop in air quality in our town--our town registered PM2.5 readings as high as 225 and the air quality monitors showed that PM 2.5 particulate was nearly double that in Boise during October and November.

The asphalt plant has historically violated the requirements of its existing plant with no regard for the health of our residents. It is grossly unfair to ask the citizens to be exposed to the pollution from this plant and from other pollution sources in our community. I suggest you refer to the Idaho Department of Health and Welfare report titled "Asthma in Idaho". The cost of poor air quality is neatly delineated in their report. This report shows the impact of poor air quality on the health of our citizens and especially children. This report shows our region has a respiratory disease rate that rivals the most polluted areas in the nation--hmmm.

The Chief of Staff of the McCall Memorial Hospital, Dr. Steven Merandi, testified at a public meeting last December about the serious health effects of the air pollution in our town. Yet, neither the city council nor DEQ has responded--with the exception of DEQ removing our air quality monitor. I respectfully request DEQ and the City of McCall schedule a public meeting so citizen's concerns can be adequately aired.

Response: Regarding monitoring, refer to the background section and DEQ's Responses to Comments 1 and 5.

As for facility violations, if it is determined that the facility has violated a condition(s) within the PTC, penalties may be imposed in accordance with the Idaho Environmental Protection and Health Act, Idaho Code § 39-108, and DEQ policies, including the Air Quality Administrative Penalty Policy.

Comment 23: **I think this permit should be granted. There are two locations in Valley County that are zoned Industrial. This area is one, the other is the area around the McCall airport and is proposed to be changed to an Airport zoning. This area has been industrial in nature since the 1960's with sand and gravel, concrete, garbage disposal companies and the City's municipal wastewater treatment plant and sewage lagoons. Materials to be released fall within the guidelines recommendations. Because Valley Paving sometimes has materials that are dryer than at others they are sometimes able to produce asphalt at a faster rate due to the reduced drying time. This will contribute to a potentially shorter period of operation as their total output is not being increased. If they could operate at 300 vs 200 T per hour for the entire time it takes to produce the maximum 280,000 tons of asphalt allowed in a 12 month period. This would shorten the operation time from 1400 hours to just over 900 hours. Almost 12 fewer weeks of operation per year if we assumed a 40 hour work week. People did not seem to be grasping this aspect of the permit although it is clearly stated the neither the allowable total hours of operation nor the allowable output was being increased. The additional odor control measures should help alleviate at least some of the complaints from the neighbors. It was interesting to note that the same people who were complaining about the proximity of the asphalt plant to their homes were the same people who complained to the City of McCall wanting their streets paved. Road dust also contains many of the pollutants they are complaining about. McCall is where the asphalt materials are needed. New subdivisions are required to have paved roads. Hwy 55 is scheduled for repaving. It does not make sense to move the asphalt plant to move their emissions and then add to total emissions in Valley County because the materials have to be moved a greater distance to the place they will actually be applied. The plant is portable but it is very time consuming and expensive to move it. I am sure permits and CUP's would have to be obtained in order for it to operate in other areas of our county.**

Response: Again, DEQ does not have siting authority. And as mentioned above, both throughput and hours of operation are limited. Should the facility operate at a higher hourly operating rate, annual operating hours decrease.

Comment 24: **I ask for full EPA review of this permit and the analysis contained therein. Because I have reason to believe that the head of DEQ, Toni Hardesty, is married to the head of the EPA air quality division that would normally engage in such scrutiny, I hereby ask for the highest level of review within the region. I ask that such review focus on, but not be limited to the following:**

a. DEQ has not classified the airshed here. It is listed as Unclassified. Thus, I do not understand how DEQ can determine whether the plant violates ambient air quality standards.

b. I fail to see how DEQ can issue a permit that exceeds the AACC and AAC for TAPs.

c. I request an analysis of all PM standards as applied in this airshed and to this permit.

d. I request an analysis of the scrubber water and whether it is

discharged illegally without a permit or whether it is recycled, in which case its effectiveness may be seriously compromised.

e. I request an overall analysis of the airshed conditions here as they relate to breathing disorders in the McCall area, and an analysis of how this permit would exacerbate such conditions. I request that such analysis be provided after consultation with the Idaho state health department and local health officials including McCall physicians.

f. I have reason to believe that the plant has emissions that contribute to global warming. I have standing, along with other citizens of McCall to assert injury from global warming based on: loss of snowpack and recreational opportunities, rain on snow events and landslides, decreased water supplies, species imperilment and other harms. I ask for EPA analysis as to whether DEQ has a duty to regulate such emissions under the CAA.

Response: This comment is a request for EPA review of several points. The comment is not addressed to DEQ therefore no further response by DEQ is provided.

Comment 25: **I further ask for a full, elevated EPA review of the entire DEQ permit program, based on the level of permits that are actually denied (1 % as reported to me by Mike Simon). I feel this low percentage of denials indicates a bias in the agency and an inclination to rubber stamp permits at the expense of public health and legal standards. I request that the EPA consider revoking the DEQ's authority to implement the Clean Air Act through a state program.**

Response: EPA periodically audits Idaho DEQ. Additionally, DEQ has a workplan with EPA Region X. DEQ also sends a copy of all final PTC's to EPA Region X.

Comment 26: **I ask for an audit of this DEQ process by the Attorney General of Idaho. I believe this permit process violates the due process of McCall citizens as it has a pre-determined outcome. I hereby incorporate into the record a statement made by Bill Rodgers in the Star News published Thursday Jan. 11: "I imagine that there is going to be a lot of comments we have to sort through, but at the end of the day, DEQ is going to issue a permit." This statement indicates a decision prior to the completion of the public process.**

Response: The Attorney General's Office is not authorized to conduct an audit of a state agency. Agency audits are conducted by the Office of Performance Evaluations pursuant to Idaho Code Section 67-460. Additionally, as discussed in Response to Comment 24, EPA also conducts audits of DEQ's program. The Rules of Administrative Procedure before the Board of Environmental Quality, IDAPA 58.01.23 provide citizens with standing to contest final agency decisions.

Comment 27: **I hereby request a legal opinion letter from the Attorney General of Idaho as to whether DEQ has authority to abate a clear public nuisance caused by air emissions from this plant, and whether the DEQ has a public duty, as sovereign trustee of the airshed, to prevent pollution from this plant as separate bases apart from the regulatory standards.**

Response: The Attorney General's Office is not authorized to provide legal opinions to members of the public. Attorney General's opinions are provided upon request from a legislator, the governor, secretary of state, treasurer, state controller or the superintendent to public

instruction upon any question relating to their respective offices per Idaho Code Section 67-1401(6).

Comment 28: **The air quality model used to analyze the emissions is outdated, unable to model conditions that lead to the highest concentrations of pollutants, and was improperly applied.**

Basically, the model that was used produces invalid results for low wind conditions. And the problem is that under those types of conditions you get your worst case dispersion results.

Also, the results are suspect when the source plume is within the atmospheric boundary layer, which is the mixing zone near the earth's surface. These models weren't developed for that and it doesn't work.

The ambient air boundary is improperly defined in the model and the worst error is the use of meteorological data from the Boise Airport. Under no stretch of the imagination could the Boise data comply with the general direction in their own guidelines stating that the meteorological data used in the modeling analysis should be representative of the meteorological conditions at a particular site of the proposed construction or modification.

Because if the flaws and the modeling errors and the limitations of the model, I would request that the analysis is invalid and I would request that the analysis be referred, along with all technical public comments, to Region X EPA for review and if necessary, reanalysis.

Response: IDAPA 58.01.01.202.02 requires, "All estimates of ambient concentrations shall be based on the applicable air quality models, data bases, and other requirements specified in 40 CFR 51, Appendix W (Guideline on Air Quality Models)." There was a change in Appendix W recommended point source dispersion models just prior to the time of the original permit application submittal. The existing model was ISCST3 and the new model is AERMOD. Both models are straight-line trajectory three-dimensional Gaussian dispersion models. AERMOD retains the single straight line trajectory of ISCST3, but includes more advanced algorithms to assess turbulent mixing processes in the planetary boundary layer for both convective and stable stratified layers.

AERMOD offers the following improvements over ISCST3:

- Improved dispersion in the convective boundary layer and the stable boundary layer
- Improved plume rise and buoyancy calculations
- Improved treatment of terrain affects on dispersion
- New vertical profiles of wind, turbulence, and temperature

EPA allowed a one-year transitional period during which either ISCST3 or AERMOD could be used in the air impact analyses. The original Valley Paving permit application was received at DEQ during this transitional period, and ISCST3 was used for the air impact analyses. However, AERMOD was used in the revised air impact analyses performed by DEQ, as described in the most-recent DEQ Statement of Basis. AERMOD is the dispersion model now used in Idaho and other states to evaluate impacts of point source air pollutant emissions at distances between the facility property boundary and about 50 kilometers.

Meteorological data from Boise, Idaho, with wind directions rotated by a constant value to align typical annual wind directions in Boise with those observed in McCall (as indicated by data from the McCall airport), were the most representative model-ready meteorological data reasonably available. Meteorological data from the McCall airport were not adequate for use in AERMOD and were not in a format readily usable by the AERMOD meteorological preprocessor. DEQ acknowledges that use of Boise meteorological data results in greater uncertainty in results than if model-ready data were available for the Valley Paving site or at the McCall airport. For this reason, model-ready data from Spokane, Washington, were also used in the air impact analyses. The higher of concentration results from either Boise or Spokane were used to evaluate compliance with applicable standards. Also, the maximum of 1st high modeled results from each receptor was used to evaluate compliance with the 24-hour PM10 standard, rather than the typical approach of using the maximum of 6th high modeled results (representing the requirement of not expecting to exceed the 24-hour PM10 standard more than once each year when modeling a five-year data set).

Modeling results obtained from use of the two meteorological datasets did not vary considerably from each other. This is expected since emissions sources in the analyses are fairly close to ground level and maximum impacts are predicted very close to the facility boundary. At locations more distant from the emissions sources, differences in atmospheric temperature and turbulence between the two datasets will substantially affect dispersion.

EPA only reviews modeling analyses associated with permits that are either a major new source or major modification (major is defined by the magnitude of emissions associated with the project). The Valley Paving modeling analyses will not be reviewed by EPA because emissions from the project and the facility as less than thresholds defining a major modification.

Comment 29: **I'd also like to see an expiration date applied to the permit.**

Response: Expiration of a PTC is not authorized under Idaho's current air quality regulation.

Comment 30: **Will the technicians responsible for monitoring this be supplied with equipment and training to conduct their sampling and monitoring under Provision 4.d of "Inspection and Entry" of the permit?**

Response: Yes.

Comment 31: **The permit calls for the proponent, VPA, to provide evidence of oil testing. They have forged documents in the past. I don't think it's going to work. DEQ should sample the oil, the used oil themselves and send it to a reputable laboratory for analysis. I'd like to see that happen with every new load of oil they purchase.**

Response: DEQ does not have the resources to sample every load of oil Valley Paving purchases. The permit requirement is consistent with other issued permits for hot-mix asphalt plants.

Permit Condition 3.22 requires that the permittee obtain a used oil fuel certification from the supplier on an as-received basis. These certifications must be retained by the facility for the most recent five-year period. DEQ inspectors will review these documents during inspections.

Comment 32: **There's a false statement on page 10 of the permit which says: "TAPs that exceeded the EL were modeled and were determined to be below their respective AACs or AACCs."**

This is false because they were not It's so misleading. There are four pollutants that actually exceed the standards that DEQ sets for those pollutants. DEQ glosses over that fact with the technicality that those are facility-wide values and are existing conditions that are not due to the present modification that is being analyzed under this particular permit. In other words, that stuff is already going out there now exceeding standards.

How can DEQ legally allow these emissions to continue under the existing permits? Whereas the enforcement under the existing permits are not in compliance, how can we expect anything otherwise in the future?

Response: See DEQ's Response to Comment 1 and Appendix E in the Statement of Basis for Valley Paving and Asphalt PTC No. P-060024.

Comment 34: **The plant has a scrubber right now. It's a venturi scrubber. We wonder where that water is discharging? Scrubbers use a huge amount of water. We have asked DEQ to identify where that water is discharging? There is no NPDES permit allowing the discharge into a waterway. And if this scrubber water is recycle, people tell me, and we want DEQ to explore this, people tell me that it does not take out particulate matter as well as it should. So, we want to know what is happening with the scrubber water?**

Response: The scrubber water is held in a concrete lined basin. The water is not discharged. The water is recirculated and more water is added when needed. Site visits by DEQ's compliance staff have verified this. Although a response has been provided, this comment is beyond the scope of this air permit action.

Comment 35: **Why is DEQ making legal the very practices that Valley Paving was fined for?**

Response: Valley Paving did violate their existing permit by using used oil and exceeding the allowable hourly throughput. Penalties were imposed to the facility in accordance with the Idaho Environmental Protection and Health Act, Idaho Code § 39-108, and DEQ policies, including the Air Quality Administrative Penalty Policy. However, the activities they were penalized for are legal if they have a permit which allows for the activities. The facility can legally request and potentially be granted such a permit in accordance with the Rules. Other hot-mix asphalt facilities in Idaho have such permits.